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| 10/601,054  | 06/20/2003  | John Marshall        | 007-2               | 5532             |
| 36080 7590 05/07/2008<br>LAW OFFICE OF CHARLES E. KRUEGER<br>P.O. BOX 5607<br>WALNUT CREEK, CA 94596-1607 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| TRAN, QUOC A  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 2176  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/601,054

**Applicant(s)**

MARSHALL, JOHN

**Examiner**

Quoc A. Tran

**Art Unit**

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 26 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is a Non-Final Office Action. This action is responsive to RCE/Amendments/Remarks, which was filed on 03/26/2008.

Claims 1-8 are currently pending in the case, with claims 1, and 4 being the independent claims. Applicant has amended independent claims 1, and 4.

Effective filing date is 06/20/2003, CIP of 10/348,211 filed 01/16/2003, which claimed benefit of Provisional No. 60/350,126 filed **01/18/2002**, and 60/390,514 filed 06/21/2002 (Assignee: ClickTrack, Inc).

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/26/2008 has been entered.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

**Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen, et al. US 20020089532A1 filed 12/05/2001 [hereinafter "Cohen"], in view of Omoigui, US 20070038610A1 Provisional No. 60/300,385 filed 06/22/2001 [hereinafter "Omoigui"].

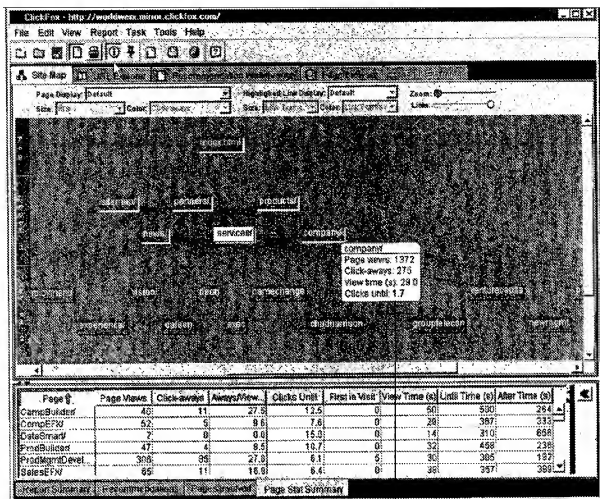
*Regarding independent claim 1,*

Cohen teaches:

**A method comprising the step of:**  
**parsing the document object of a web page located by a requested**  
**URL to determine the location and type of an element of the web page**  
**which is an element having statistics available;**

(See Fig. 8-9 and Para 35→Cohen discloses this limitation in that the "ClickFox" web page (i.e. URL), include plurality of elements. Elements include various statistical information such as the behavior of a particular group of visitors (i.e. visitors viewing time, clicking-aways) within each web page within the web site.)

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Page Statistical  
Data Summary

Statistical data,  
such as "tagging  
Visitors view,  
clicking time.

constructing a graphic object that conveys user interaction

information about a prior use of the element based on statistics available

for the element;

(See Para 8-9→Cohen discloses this limitation in that the "ClickFox" web page (i.e. URL), include plurality of elements. Elements include various statistical information such as the behavior of a particular group of visitors (i.e. visitors viewing time, clicking-aways) within each web page within the web site.

Also See Para 2-3, Cohen discloses the web site automatic evaluation and customization for displaying patterns of utilization of a web site, or other similar resource, containing Objects and displaying such patterns in graphical formats.

In addition, Cohen does not expressly teach, but Omoigui teaches:

**modifying the DOM of the web page by inserting the graphic object within a hierarchy of the DOM so that the graphic object is displayed overlaid partially on top of a visual presentation of the website, such that the graphic object is in close proximity to the element when the DOM is rendered by an HTML rendering engine.**

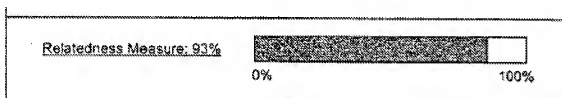
(See Fig. 71-72 and at Para 268, 994→Omoigui discloses this limitation in that the graphic object is displayed overlaid partially on top of a visual presentation of the website, such that the graphic object using Document Object Model (DOM) for SVG presented in close proximity to the element, in this example (the Smart Lens object and the "lensed over" object), both as a percentage and graphically and/or a bar chart as shows in Fig. 71 and 72 the relatedness measurer 93% slide bar.

Also see Fig. 68 and at Para 986-987, Omoigui discloses XHTML results document through the insertion through DOM insertion, includes the HTML file loads via

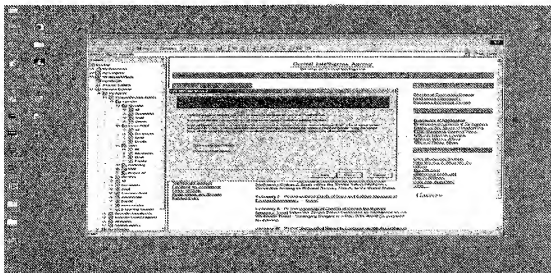
HTML browser (i.e. HTML rendering engine) through a control (e.g., ActiveX, Java, Internet Explorer behavior, etc.) also FIG. 68 shows a page from the "Add Blender" wizard that allows users to select whether they want to create a standard Blender or a virtual Blender.

**parsing and constructing the document object model (DOM) of a web page.**

(See Fig. 71-72 and at Para 986→Omoigui discloses this limitation in that the XHTML results document through callbacks from resources indicating that objects are available to be converted to XHTML (or equivalent presentation format, preferably via the current XSLT and/or script-based Skin, and pushed into the DOM for presentation (i.e. Parsing and constructing).



**FIGURE 72**



It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Cohen's solutions to modify the web site in accordance with tagging visitors' information, to include a means of parsing, constructing, and modifying the DOM of the web page by inserting the graphic object within a hierarchy of the DOM so that the graphic object is displayed overlaid partially on top of a visual presentation of the website, such that the graphic object is in close proximity to the element when the DOM is rendered by an HTML rendering engine as taught by Omoigui. One of the ordinary skills in the art would have been motivated to modify this combination, because using a DOM, or Document Object Model, (i.e. is a tree representation of the structure of a Web document that may be used via scripts to access and manipulate any element within that page) of Omoigui to parsing, constructing, and modifying the web page utilizing Statistical data, such as "tagging Visitors" view, clicking time, that allows web designers to view patterns in visitor behavior concerning web sites and visitor utilization of web sites wherein the web pages in such a web site are essentially uncorrelated to one another entice the visitors to make their user session longer and purchase more products (see Cohen at Para 3-4).

*Regarding independent claim 4,*

is directed toward a computer program product to perform a method of claim 1 and is similarly rejected under the same rationale (see Cohen at Para 26, and 43).



**Claim 2:**

Cohen teaches:

**constructing a graph depicting an available statistical quantity for the element.**

(See Cohen at Fig. 4 and Para 39, discloses graphical representation is the use of pie charts that represent various attributes about the web page. The size of the piece of pie may represent the number of times that a particular web page was the nth stop during the visitation of the web site.)

**Claim 3:**

Cohen teaches:

**constructing a chart depicting an available statistical quantity for the element.**

(See Cohen at Para 36, discloses graphical representation is the use of pie charts that represent various attributes about the web page. The size of the piece of pie may represent the number of times that a particular web page was the nth stop during the visitation of the web site.

Also, see Cohen at Para 39, discloses graphical representation is for the sequence of a visitor or a particular group of visitors to be indicated by an icon symbolizing the visitor or visitors. The icon representing a visitor or visitors may move between the pages in the requested sequence.

**Claims 5-6:** (respectively)

are directed toward a computer program product comprising one or more computer readable media having computer readable program code physically embodied therein, when executed by a computer, cause the computer to perform a method of claims 3-4 respectively and is similarly rejected under the same rationale (see Cohen at Para 26, and 43).

**Claim 7:**

Cohen teaches,

**computer readable program code when executed operable to display the web page comprising the element, wherein the element is rendered as displayed in the prior use.**

(See Cohen fig. 8-9 and Para 35, illustrating the "ClickFox" web page, include plurality of elements. Elements include various statistical information such as the behavior of a particular group of visitors (i.e. visitors viewing time, clicking-aways) within each web page within the web site. This interpretation is supported by Applicant's Specification, which states "*statistical information. These programs display, for example, the average length of time each user spends on each page, or the path they take from page to page.*," at Page 2 Para 14, and "elements in the page are objects for which it has statistical data," at Page 3 Para 31.

**Claim 8:**

Cohen teaches,

**rendering the document object to display the web page comprising  
the element, wherein the element is rendered as displayed in the prior use.**

(See Cohen fig. 8-9 and Para 35, illustrating the "ClickFox" web page, include plurality of elements. Elements include various statistical information such as the behavior of a particular group of visitors (i.e. visitors viewing time, clicking-aways) within each web page within the web site. This interpretation is supported by Applicant's Specification, which states "*statistical information. These programs display, for example, the average length of time each user spends on each page, or the path they take from page to page.*," at Page 2 Para 14, and "elements in the page are objects for which it has statistical data," at Page 3 Para 31.

Also, see Cohen at Fig. 7 and Para 34, discloses graphical representation is a tree oriented site map representation where each node represents a web page or a resource within the web site and arrows are used to show the relationship between the web pages or, the traversal paths followed by various users accessing the web site.)

In addition, Cohen does not expressly teach, but Omoigui teaches:

**rendering (DOM) to display a web page.**

(See Para 268, 994→Omoigui discloses Document Object Model (DOM) for SVG presented in a web page.)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified Cohen's solutions to modify the web site in accordance with tagging visitors' information, to include a means of parsing, constructing, and modify a web page utilizing the document object model (DOM) of the web page as taught by Omoigui. One of the ordinary skills in the art would have been motivated to modify this combination, because using a DOM, or Document Object Model, (i.e. is a tree representation of the structure of a Web document that may be used via scripts to access and manipulate any element within that page) of Omoigui to parsing, constructing, and modifying the web page utilizing Statistical data, such as "tagging Visitors" view, clicking time, that allows web designers to view patterns in visitor behavior concerning web sites and visitor utilization of web sites wherein the web pages in such a web site are essentially uncorrelated to one another entice the visitors to make their user session longer and purchase more products (see Cohen at Para 3-4), and Cohen further discloses, utilizing the visitor behavior data in the form of log files and site structure at the data modeling level. This unique technology analyzes the impact of the website structure on the user experience, compares it to the anticipated user experience, and provides recommendations on site improvement. These recommendations allow web owners to find quickly an optimal match between their own business objectives for the site or segment of the site and the needs and wants of the users. The result is that users can understand in a glance where visitors are getting turned off, what they are finding interesting and why (see Cohen at Para 11).

It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See, MPEP 2123.

### ***Response to Argument***

The Arguments filed on 03/26/2008 has been fully considered but they are moot in view of the new ground(s) of rejection (**Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen, in view of Omoigui).

i) It is noted, the examiner maintains Cohen reference at this time; since Cohen is directed to a system and method to in that the "ClickFox" web page (i.e. URL), include plurality of elements. Elements include various statistical information such as the behavior of a particular group of visitors (i.e. visitors viewing time, clicking-aways) within each web page within the web site.) See Fig. 8-9 and Para 3; Also Cohen further disclose

monitoring behavior concerning web sites and visitor utilization of web sites wherein the web pages in such a web site are essentially uncorrelated to one another entice the visitors to make their user session longer and purchase more products (see Cohen at Para 3-4), also Cohen further discloses at Para 3-4, the web site automatic evaluation and customization for displaying patterns of utilization of a web site, or other similar resource, containing Objects and displaying such patterns in graphical formats. It is reasonably interprets as graphical object as claimed.

ii) In responses to the Applicant argues to ward the newly amended portion of independent claims 1 and 4, the Examiner introduce a Omoigui reference in that Omoigui taught include a means of parsing, constructing, and modifying the DOM of the web page by inserting the graphic object within a hierarchy of the DOM so that the graphic object is displayed overlaid partially on top of a visual presentation of the website, such that the graphic object is in close proximity to the element when the DOM is rendered by an HTML rendering engine, See above rejection for details.

Accordingly, One of the ordinary skills in the art would have been motivated to modify this combination, because using a DOM, or Document Object Model, (i.e. is a tree representation of the structure of a Web document that may be used via scripts to access and manipulate any element within that page) of Omoigui to parsing, constructing , and modifying the web page utilizing Statistical data, such as "tagging Visitors" view, clicking time, that allows web designers to view patterns in visitor

behavior concerning web sites and visitor utilization of web sites wherein the web pages in such a web site are essentially uncorrelated to one another entice the visitors to make their user session longer and purchase more products (see Cohen at Para 3-4).

Accordingly, for at least all the above evidence, therefore the Examiner respectfully maintains the rejection of claims 1-8 at this time.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is 571-272-8664. The examiner can normally be reached on Mon through Fri 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on (571)272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Quoc A. Tran/*

Patent Examiner

Art Unit 2176

05/2/2008

*/Rachna S Desai/*

Primary Examiner, Art Unit 2176